

The U.S.-China JCCT: Outcomes

Established in 1983, the U.S.-China Joint Commission on Commerce and Trade (JCCT) is a government-to-government consultative mechanism that provides a forum to resolve trade concerns and promote bilateral commercial opportunities.

The 15th plenary session of the US-China Joint Commission on Commerce and Trade (JCCT) took place on April 21, 2004. This was a special session co-chaired by Secretary of Commerce Donald Evans and US Trade Representative Robert Zoellick on the US side and by Vice Premier Wu Yi on the Chinese side. The JCCT achieved concrete results on key concerns and laid the framework for further progress.

Leveling the Playing Field -- Structural Issues and Market Economy Status

One of President Bush's key goals in the trade arena is to ensure that the playing field is level, meaning that competition is determined by the market, rather than government intervention. In prior decisions, the Commerce Department has found that China does not yet qualify as a market economy under the U.S. antidumping law. In the case of China, the surest means to ensure that the playing field is level is to encourage China's ongoing structural reforms, which are intended to create a market economy.

In order to assess China's reforms to date, as well as to identify the steps China would have to take, under U.S. law, to achieve market economy status, China and the U.S. agreed during the JCCT meetings to the establishment of a working group, to be jointly chaired by James Jochum, Assistant Secretary for Import Administration from the Department of Commerce, and the appropriate Director General from MOFCOM. The immediate goals of the group will be to:

- Consult closely regarding the criteria under U.S. law needed to achieve market economy status;
- Review, under the framework established by U.S. law, the broad spectrum of policies and practices that are a part of the ongoing structural reform in China ; and
- Identify the steps necessary for China to qualify as a market economy under U.S. law.

The working group will provide a forum dedicated to the discussion of these issues, including concerns about unfair trade problems and the remedial measures applicable to them, which do not readily fall within the mandate of any of the other working groups currently in existence under the JCCT.

The United States attaches great importance to the establishment of this group so that our two governments may explore and discuss China's economy and its ongoing economic reform program, pragmatically address concerns about trade- and market-distorting practices that might otherwise lead to bilateral trade frictions, and consider the Government of China's concerns about China's non-market economy status under the U.S. antidumping law.

This working group is the embodiment of the spirit of cooperation forged between Premier Wen Jiabao and President Bush when they met last year and we welcome China's participation.

Export Controls

The U.S. Department of Commerce reached an understanding with the Ministry of Commerce of the People's Republic of China on procedures to strengthen end-use visit cooperation and help ensure that U.S. exports of controlled dual-use items are being used by their intended recipients for their intended purposes. During the JCCT meetings, China and the U.S. agreed to the following:

This new end-use visit understanding specifies procedures for conducting end-use visits, while also providing a mechanism for consultations on other end-use visit issues that may arise. The understanding resolves a long-standing issue of great importance to the U.S.-China high-technology relationship.

Resolution of this longstanding issue will allow for increased U.S. exports to China of high-technology items subject to appropriate safeguards. This new end-use visit understanding provides an important example of the United States and China working together to solve practical problems to the benefit of both their peoples, as well as the increasing consensus on the objectives of the underlying strategic purposes of the controls.

Trade Promotion

In December 2003, President Bush and Premier Wen agreed that significantly increasing U.S. exports to China would be a priority of both governments, and that the JCCT was a key vehicle for accomplishing this effort.

Currently there are almost 13,000 U.S. small and medium-sized businesses that export to China. China is the seventh largest market for U.S. merchandise exports. This year should see an increase in opportunities for U.S. small and medium-sized businesses (SMEs), as Chinese tariffs continue to decrease due to their WTO commitments and additional non-tariff barriers are eliminated. Despite these advantages, China is a difficult market for U.S. companies due to distance, language, and numerous Chinese regulations.

To help U.S. companies overcome these barriers and take advantage of the opportunities, the JCCT has been working on a joint proposal on trade promotion. A key element of this proposal is an agreement between the China Council for the Promotion of International Trade (CCPIT), the U.S. Department of Commerce and the U.S. Small Business Administration. This alliance includes:

- CCPIT logistical support to DOC trade missions, especially those organized for SMEs.
- Introducing U.S. SMEs to Chinese firms and government entities seeking suppliers of goods, products or services, especially through downstream procurement. CCPIT has

pledged to help U.S. SMEs gain access to Chinese supply chains, either directly or via subcontracting.

This approach, coupled with the new Virtual Business Information Center, will dramatically increase our ability to help U.S. SMEs export to China.

Textiles

By way of background, U.S. imports of textiles and apparel from China reached \$11.6 billion in 2003 while U.S. exports to China of these products totaled \$225 million (50 to 1 in China's favor). China's exports of textile products to the U.S. have surged dramatically since quotas were lifted on an array of such products at the end of 2001. The U.S. consumer market is undoubtedly important to the Chinese industry.

Those facts have created tensions in our bilateral trade relationship. Those tensions led the U.S. industry to exercise its right to petition for relief under a special textile safeguard, bargained for by the United States as a part of China's WTO accession. As a part of their arguments in support of their petition, the U.S. industry maintained that China has policies and practices that distort trade and investment in the textile sector including: high tariffs, improper customs valuation practices, arbitrary import taxes, non-transparent import licensing, subsidies provided to state-owned enterprises, VAT rebates, and currency undervaluation. Intellectual property rights violations, including textile design "knock-offs" and trademark piracy, have also been a serious problem in China.

The U.S. interagency Committee for the Implementation of Textile Agreements (CITA) determined on November 17, 2003 that market disruption or threat thereof existed for imports of three textile products from China (brassieres, robes, knit fabric) that were subject to industry petitions. Quotas were put into place on December 24 for a one-year period. Consultations were held with China on the safeguards on January 12-13, 2004 in Beijing and on March 3 in Washington. No further consultations have been scheduled and the quotas remain in place.

At the same time, there is a growing market in China for American fiber and other textile products. Cotton exports, for example, have grown significantly in recent years, providing a reliable source of high-quality fiber to the Chinese industry. Given the competitiveness of many U.S. textile producers, there are new opportunities available in those sectors of the market where the capital intensive nature of U.S. production and their leading designs can offer an edge.

To begin addressing the many difficult issues affecting our relationship in this sector, the U.S. and China have agreed to reinforce their existing dialog on textile trade. Under this plan, China has committed to:

- Upgrading ongoing discussions to the Under Secretary-Vice Ministerial level, to attempt to understand and try to resolve issues.
 - As a part of this dialog, a seven company U.S. business delegation visited Beijing in March, in conjunction with a visit by Commerce Under Secretary Aldonas, to meet with counterparts in Chinese industry.

- Discussions addressed mutual trade and investment opportunities, barriers to U.S. exports of textile products to China, intellectual property rights, and possible scenarios for the bilateral textile trade relationship when quotas are eliminated at the end of this year.
- Further business-to-business discussions in the United States later this year, with a view to improving the trade imbalance in this sector.

Industrial Policies

During the JCCT, China announced steps toward a market-based and technology neutral approach to the development of next generation wireless standards for computers and mobile phones. These steps will enable American firms to participate fully in China's growing market for information technology.

- With respect to its proprietary WAPI encryption standard for wireless computer networks, China announced that it will:
 - Suspend indefinitely its proposed implementation of WAPI as a mandatory wireless encryption standard.
 - Work to revise its WAPI standard, taking into account comments received from Chinese and foreign firms.
 - Participate in international standards bodies on WAPI and wireless encryption For computer networks.
- With respect to third generation telecommunications standards (3G) for mobile phones, China stated that:
 - It supports technology neutrality with respect to the adoption of 3G.
 - Telecommunications service providers in China will be allowed to make their own choices as to which standard to adopt, depending on their individual needs.
 - Chinese regulators will not be involved in negotiating royalty payment terms with relevant intellectual property rights holders.

Intellectual Property

China presented an action plan designed to address the piracy and counterfeiting of American ideas and innovations. Under this plan, China has committed to:

- Significantly reduce IPR infringement levels.
- Increase penalties for IPR violations by taking the following actions by the end of 2004:
 - Subject a greater range of IPR violations to criminal investigation and criminal penalties.

- Apply criminal sanctions to the import, export, storage and distribution of pirated and counterfeit products.
- Apply criminal sanctions to on-line piracy.
- Crack down on violators by:
 - Conducting nation-wide enforcement actions against piracy and counterfeiting – stopping the production, sale and trade of infringing products, and punishing violators.
 - Increasing customs enforcement action against the import and export of infringing products and making it easier for rights-holders to secure effective enforcement at the border.
- Improve protection of electronic data by:
 - Ratifying and implementing the World Intellectual Property Organization (WIPO) Internet Treaties as soon as possible.
 - Extending an existing ban on the use of pirated software in central government and provincial agencies to include local governments.
- Launch a national campaign to educate its citizens about the importance of IPR protection (campaign started on April 6). The campaign will include press events, seminars and outreach through television and print media.
- Establish an intellectual property rights working group under the JCCT. Under this working group, U.S. and Chinese trade, judicial and law enforcement authorities will consult and cooperate on the full range of issues described in China's IPR action plan.

Services

China agreed to accelerate steps necessary to allow U.S. companies to import, export, distribute and sell their products in China without going through local state trading companies – giving them full control of their supply chains from American farm or factory to Chinese store shelf. Specifically, China has committed to:

- Implement its WTO trading rights obligations by July 1, 2004 – six months ahead of schedule (law setting July date issued April 6).
 - Once these rights are in effect, U.S. companies will be free to ship American products into China without using local middlemen.
 - China will publish its draft implementing regulations on trading rights for public comment by June 1, 2004.
- Provide distribution rights to U.S. companies in China on schedule by the end of 2004. China published its draft implementing regulations for distribution rights on April 16, well in advance of the implementation date.
 - Distribution rights will allow U.S. firms to engage in wholesaling and retailing of U.S. products directly within China, as well as providing related services.

- Open its market for American shipping through a Bilateral Maritime Agreement signed during the JCCT – allowing U.S. carriers to open full branches in China and to operate without restrictions.

Agriculture

China agreed to implement new transparency procedures and issue product approvals that will further open its market for U.S. agricultural products. Specifically, China will:

- Issue final safety certificates for U.S. biotech soybeans, ensuring opportunities for continued strong U.S. sales to China.
- Announce biotech approvals for seven U.S. canola and four U.S. corn events and review the remaining two U.S. corn events submitted for approval when its technical committee meets in May.
- Make it easier to export American wheat, cotton, corn and other products subject to tariff rate quotas to China by providing the names of its domestic quota holders to U.S. exporters upon request.

U.S.-CHINA SIGNING CEREMONY

Signing Descriptions

- 1) **USDA-AQSIQ Letter of Intent.** The U.S. Department of Agriculture (USDA) and the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ) will sign a letter declaring their intent to establish a consultative mechanism to strengthen scientific cooperation and exchange in the field of food safety and animal and plant health, and to facilitate trade in agricultural commodities between the two countries. By agreeing to establish this consultative mechanism, both sides demonstrate a strong commitment toward working cooperatively to address outstanding bilateral trade issues, in accordance with relevant international standard setting organizations and the World Trade Organization.
- 2) **Minutes of Meeting between FDA and AQSIQ.** Please see FDA press release.
- 3) **CPSC-AQSIQ Memorandum of Understanding.** In order to protect the health and safety of consumers, the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ) will enter into a Memorandum of Understanding (MOU) with the United States Consumer Product Safety Commission (CPSC). The participants will exchange scientific, technical, and regulatory information to help ensure the quality, safety and proper labeling of consumer products. The information exchange includes training of laboratory and inspection personnel. By deepening understanding of each other's rules and processes, the MOU will facilitate export readiness and the free flow of goods between the two countries. In order to conduct the activities under the MOU, the participants will designate contact persons to develop a Plan of Action on Cooperation, which will outline the scope and details of each activity.
- 4) **Maritime Agreement Exchange of Diplomatic Letters.** This exchange will put into force a new Maritime Agreement, signed by both countries on December 8, 2003, that grants market access for U.S. companies. This achievement culminates a negotiation that has lasted nearly six years. The Agreement will open up significant new business opportunities for U.S. carriers and transportation intermediaries doing business in China. The Agreement removes basic restrictions on U.S. carriers' operations in China. The Chinese benefit from an exemption from freight tariff filing requirements of the Controlled Carrier Act. The exchange of diplomatic notes marking the entry into force of the agreement is a significant event in the maritime relations of the two countries.
- 5) **DOC-MOFCOM End-Use Visit Understanding.** The United States Department of Commerce is pleased to have agreed with the Ministry of Commerce of the People's Republic of China on procedures to strengthen end-use visit cooperation and help ensure that U.S. exports of controlled dual-use items are being used by their intended recipients for their intended purposes. This new end-use visit understanding specifies procedures for conducting end-use visits, while also providing a mechanism for consultations on other end-use visit issues that may arise. The understanding resolves a long-standing issue of great importance to the U.S.-China high-technology relationship. We hope that this understanding will enable increased U.S. exports to China of high-technology items. This new end-use visit understanding provides an

important example of the United States and China working together to solve practical problems to the benefit of both their peoples.

- 6) **TDA-MOFCOM Memorandum of Understanding.** The Memorandum of Understanding (MOU) between the U.S. Trade and Development Agency (TDA) and the Ministry of Commerce of the People's Republic of China (MOFCOM) confirms TDA's commitment to fund training for the Civil Aviation Administration of China as part of the U.S./China Aviation Cooperation Program, which is a public-private partnership between TDA, the Federal Aviation Administration and U.S. industry operating in China. In addition, the MOU confirms TDA's commitment to support healthcare related projects in China as well as the development of a technical assistance program that will train Chinese officials on the development and enforcement of Intellectual Property Rights rules and regulations.
- 7) **Independent Association of Exhibition Management-CCPIT Framework Agreement.** This is an agreement to establish a framework that will expand trade show recruitment for U.S. companies to participate in Chinese trade shows and increase their export sales to China. This agreement establishes a framework between CCPIT and IAEM to facilitate the participation of each organization's members in exhibitions held in their respective countries. CCPIT will assist IAEM members coordinate U.S. national/group exhibits at exhibitions in China, as well as assist individual U.S. companies, especially small and medium-sized enterprises, exhibit at events in China.
- 8) **SBA-US&FCS-CCPIT Letter of Intent.** The Small Business Administration (SBA), the U.S. and Foreign Commercial Service (US&FCS) and the China Council for the Promotion of International Trade (CCPIT) agree to foster joint activities that will lead to increased contacts between small and medium-sized businesses in both countries, thereby promoting more interaction and increased U.S. exports. Projected activities include the facilitation of U.S. small and medium-sized business participation in Chinese trade fairs, CCPIT assistance with U.S. trade missions and introductions for U.S. small and medium-sized businesses to subcontracting opportunities offered by Chinese firms. Through the U.S.-China Business Information Center, the U.S. government will share information about market access and commercial opportunities from the CCPIT to help U.S. small and medium-sized businesses.

STATEMENT ON COSMETIC EXPORTS TO CHINA

The Food and Drug Administration today announced a successful resolution of an issue arising out of the January, 2004 decision by the Chinese government to suspend on public health grounds the importation of United States cosmetics. The Chinese measure, which was issued after the discovery in the state of Washington of a cow infected with BSE, the so-called Mad Cow Disease, has been estimated by the Department of Commerce to result in the potential loss of \$100 million worth of cosmetic exports a year.

The suspension has been the subject of several exchanges between the FDA and the Chinese General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), which culminated in a meeting on April 19 between visiting Mr. Li Changjiang, Minister of AQSIQ, and Dr. Lester M. Crawford, the Acting Commissioner of FDA.

Minister Li informed Dr. Crawford that following fruitful discussions earlier this month in Beijing with Dr. Robert Brackett, Director of FDA's Center for Food Safety and Applied Nutrition, AQSIQ has decided to resume importing U.S. cosmetics, and accept export certificates issued by two U.S. trade associations -- the Cosmetic, Toiletry, and Fragrance Association, and the Independent Cosmetic Manufacturers and Distributors, Inc. -- documenting that the products do not contain any animal-related ingredients not allowed in China.